

United States District Court
for the
Southern District of New York
Related Case Statement

Full Caption of Later Filed Case:

Business Casual Holdings, LLC

Plaintiff	Case Number
vs.	1:21-cv-03610-ER
Youtube, LLC et al	
Defendant	

Full Caption of Earlier Filed Case:

(including in bankruptcy appeals the relevant adversary proceeding)

Business Casual Holdings, LLC

Plaintiff	Case Number
vs.	1:21-cv-02007-JGK
TV-Novosti	
Defendant	

Status of Earlier Filed Case:

☐

Closed

(If so, set forth the procedure which resulted in closure, e.g., voluntary dismissal, settlement, court decision. Also, state whether there is an appeal pending.)

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Open

(If so, set forth procedural status and summarize any court rulings.)

Business Casual Holdings, LLC ("Business Casual") filed a complaint against TV-Novosti on March 9, 2021 and a first amended complaint against the same defendant on March 24, 2021. The complaint alleges that TV-Novosti infringed several copyrighted videos (which Business Casual originally published on its YouTube channel) by copying portions of those videos and posting them on TV-Novosti's own YouTube channel. Business Casual also alleges that TV-Novosti violated Section 512(f) of the Digital Millennium Copyright Act (DMCA) by sending a false takedown counter-notification to YouTube. The case has been assigned to Judge John G. Koeltl. An electronic summons has issued as to TV-Novosti. An initial conference is set for June 14, 2021. There has been no further activity in the case.

Explain in detail the reasons for your position that the newly filed case is related to the earlier filed case.

The newly filed case involves the same factual allegations, and many of the same legal issues, as the earlier filed case. In the earlier filed case, Business Casual accuses TV-Novosti of infringing portions of two copyrighted videos that Business Casual posted on YouTube's platform. In the newly filed case, Business Casual alleges the same facts and circumstances but accuses YouTube of engaging in copyright infringement by hosting the same content. Thus, the core factual allegations are identical between the two cases. One case targets the alleged direct infringer, TV-Novosti; the other targets the alleged infringer, YouTube, based on the same events. Indeed, the newly filed complaint explicitly references the former. See Compl. para. 39.

The outcome of one lawsuit will have a direct impact on the outcome of the other. For one, Business Casual's secondary infringement claims against YouTube require it to prove that TV-Novosti was a direct infringer. Thus the question of whether TV-Novosti infringed will be litigated in both cases under identical sets of facts, requiring much of the same evidence and testimony to be presented in both cases simultaneously. This will require an obvious duplication of effort, and also creates a risk of conflicting judgments and orders unless the cases are heard by the same judge.

Both cases also concern overlapping legal questions under the DMCA. After Business Casual submitted a takedown notice to YouTube regarding a particular video by TV-Novosti, TV-Novosti filed a counter-notification under the DMCA, leading YouTube, per the statute's instructions, to inform Business Casual that it would reinstate the video unless Business Casual pursued legal action against TV-Novosti. That prompted Business Casual's infringement action against TV-Novosti, the earlier filed case. In the newly filed case, Business Casual alleges that YouTube should have terminated TV-Novosti's account under its "repeat infringer" policy, even though the question of whether TV-Novosti is an "infringer" is currently being litigated in the earlier filed case. Thus the progress and outcome of the earlier filed case will have significant implications on the newly filed case.

Counsel for Defendants have met and conferred with counsel for Plaintiff on this issue. Plaintiff agrees that the two actions should be related.

Signature: /s/ Jason Mollick

Date: 05/18/2021

Wilson Sonsini Goodrich & Rosati, P.C.

Firm: _____